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MONTANA LEGISLATIVE HISTORY

Chapter 229 1993

Bill H 250 S _____ Original bill & history ✓ C

H. Committee on Taxation		S. Committee on Taxation	
Hearing Date(s) Jan 26	✓ C	Hearing Date(s) Feb 16	✓ C
Jan 29	✓ C	_____	____ C
_____	____ C	_____	____ C
_____	____ C	_____	____ C
Date Out Jan 29	✓ C	Feb 16	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

1/19	FIRST READING		
1/19	FISCAL NOTE REQUESTED		
1/21	REREFERRED TO STATE ADMINISTRATION		
1/25	FISCAL NOTE RECEIVED		
1/28	FISCAL NOTE PRINTED		
2/05	HEARING		
2/25	MISSED TRANSMITTAL DEADLINE		

HB 250 INTRODUCED BY REAM

AMEND DEPARTMENT OF REVENUE PROPERTY TAX REVIEW AND COUNTY AND STATE TAX APPEAL PROCESS

BY REQUEST OF DEPARTMENT OF REVENUE

1/19	INTRODUCED		
1/20	REFERRED TO TAXATION		
1/20	FIRST READING		
1/20	FISCAL NOTE REQUESTED		
1/25	FISCAL NOTE RECEIVED		
1/25	FISCAL NOTE PRINTED		
1/26	HEARING		
1/28	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/30	2ND READING PASSED	96	2
2/03	3RD READING PASSED	92	5
	TRANSMITTED TO SENATE		
2/04	FIRST READING		
2/04	REFERRED TO TAXATION		
2/16	HEARING		
3/02	COMMITTEE REPORT—BILL CONCURRED		
3/03	2ND READING CONCURRED	48	0
3/04	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/21	SIGNED BY SPEAKER		
3/23	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 227		
	EFFECTIVE DATE: 03/30/93		

HB 251 INTRODUCED BY PAVLOVICH, ET AL.

ALLOW POSSESSION OR SALE OF ANTLERS AND SKULL OF ANIMAL THAT DIED OF NATURAL CAUSES

1/19	INTRODUCED		
1/20	REFERRED TO FISH & GAME		
1/20	FIRST READING		
1/26	HEARING		
1/28	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/30	2ND READING PASSED	98	1
2/03	3RD READING PASSED	97	0
	TRANSMITTED TO SENATE		
2/04	FIRST READING		
2/04	REFERRED TO FISH & GAME		
3/09	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/12	2ND READING CONCURRED	43	3
3/13	3RD READING CONCURRED	46	1
	RETURNED TO HOUSE		
3/16	SIGNED BY SPEAKER		
3/18	SIGNED BY PRESIDENT		

HOUSE BILL NO. 250

INTRODUCED BY REAM
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

JANUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
JANUARY 28, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 29, 1993	PRINTING REPORT.
JANUARY 30, 1993	SECOND READING, DO PASS.
FEBRUARY 1, 1993	ENGROSSING REPORT.
FEBRUARY 3, 1993	THIRD READING, PASSED. AYES, 92; NOES, 5.
FEBRUARY 4, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 4, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 2, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 3, 1993	SECOND READING, CONCURRED IN.
MARCH 4, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 16, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

LC 0514/01

House BILL NO. 250

INTRODUCED BY Ream

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT AN OBJECTION TO A PROPERTY TAX CLASSIFICATION OR APPRAISAL MAY FIRST BE HEARD BY THE DEPARTMENT OF REVENUE; REVISING THE DEPARTMENT'S PROCESS FOR HANDLING AN OBJECTION; REVISING THE PROCEDURE FOR APPEALS TO THE COUNTY AND STATE TAX APPEAL BOARDS; AMENDING SECTIONS 15-1-303, 15-7-102, AND 15-15-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-303, MCA, is amended to read:

"15-1-303. Penalty for refusal to furnish information. (1) If ~~any~~ a person ~~shall refuse~~ refuses to allow inspection of any books or records when requested by the department or its authorized agent or ~~shall refuse or neglect~~ refuses or neglects to furnish any information called for by the department in the performance of its official duties relating to the assessment and taxation of property, the department shall make ~~such~~ a determination and assessment of ~~his or its~~ the property as in its judgment appears to be just and equitable and may add to ~~its~~ the assessment ~~thus~~ ~~made~~ an amount not ~~more than~~ to exceed 20% ~~thereof~~ of the assessment as a penalty for ~~such~~ the refusal or neglect. The department shall immediately notify the person so assessed of its action, either by certified ~~or registered~~ mail or by personal service of ~~such~~ the notice.

(2) Upon receiving an assessment made pursuant to subsection (1), the taxpayer has the following remedies:

(a) Within 15 days after receipt of the assessment, ~~or by April 17, whichever is later,~~ ~~he~~ the taxpayer may request an informal conference with the agent of the department. At the conference, the taxpayer may present evidence in mitigation or extenuation of ~~his~~ the failure to supply the information requested by the department. Within 10 days after the conference, the agent of the department shall notify the taxpayer by certified mail whether the assessment will be modified. The department may modify the penalty if the taxpayer presents sufficient evidence in mitigation or extenuation of ~~his~~ the failure to supply the information sought by the department and if it finds that the taxpayer did not willfully refuse to supply the information.

(b) If the taxpayer is aggrieved as a result of the informal conference, ~~he~~ the taxpayer may appeal to the county tax appeal board within 20 days after receipt of the decision of the department. The county tax appeal board has the authority to modify the:

(i) assessment only if it finds that the assessment exceeds 100% of the value of the property specified in 15-8-111; and

(ii) penalty if the taxpayer presents by a preponderance of the evidence facts in mitigation or extenuation of ~~his~~ the failure to supply the information ~~which~~ that the department sought.

(c) If the county tax appeal board modifies a penalty pursuant to subsection (2)(b)(ii), it may not reduce the penalty to less than 20% of the assessment, or if the assessment is modified pursuant to subsection (2)(b)(i), to less than 20% of the modified assessment.

(3) Either party aggrieved as a result of the decision of the county tax appeal board may appeal to the state tax appeal board within 20 days after receipt of the county tax appeal board's decision. When deciding an appeal brought under this subsection, the state tax appeal board ~~must~~ shall follow the provisions of subsections (2)(b) and (2)(c).

(4) Either party aggrieved as a result of the decision of the state tax appeal board may seek judicial review pursuant to 15-2-303."

Section 2. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification and appraisal to owners -- appeals. (1) ~~It--shall--be-the-duty-of-the~~ The department of revenue shall, through its agent as specified

in subsection (2), ~~to-cause-to-be-mailed~~ mail to each owner ~~and~~ or purchaser under contract for deed a notice of the classification of the land owned or being purchased ~~by-him~~ and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(a) change in ownership;

(b) change in classification;

(c) change in valuation; or

(d) addition or subtraction of personal property affixed to the land.

(2) The ~~county-assessor~~ department's agent shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of ~~his~~ the property and of changes over the prior tax year.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of ~~his~~ the land or improvements, ~~he~~ the owner may ~~submit--his~~ request an assessment review by submitting an objection in writing to the ~~department's-agent~~

department, on forms provided by the department for that purpose, within 15 days after receiving the notice of classification and appraisal from the department. The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. ~~In an objection to the appraisal of the property~~ As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer ~~as evidence of~~ in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of ~~hearing and hear any testimony or other evidence that the taxpayer may desire to produce at that time and afford the opportunity to other interested persons to produce evidence at the hearing~~ the review. After the ~~hearing~~ review, the department shall determine the true and correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department ~~must~~ shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land ~~shall~~ must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a ~~hearing~~ review as provided in subsection (3) is held or not, the department or its agent may not adjust an appraisal or classification upon taxpayer's objection unless:

(a) the taxpayer has submitted ~~his~~ an objection in writing; and

(b) the department or its agent has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. ~~Each county appraiser~~ The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved ~~at~~ by the classification ~~and/or the~~ or appraisal made by the department after the review provided for in subsection (3), ~~he shall have~~ the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings ~~shall be~~ are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 15 days after notice of the department's determination is mailed to the taxpayer. ~~The property owner may appeal the base valuation and the classification determination.~~ A county tax appeal

board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 3. Section 15-15-102, MCA, is amended to read:

"15-15-102. Application for reduction in valuation. ~~No reduction may be made in the~~ The valuation of property may not be reduced by the county tax appeal board unless either the ~~party affected~~ taxpayer or ~~his~~ the taxpayer's agent makes and files a written application for reduction with the county tax appeal board. The application must be filed on or before the first Monday in June or 15 days after receiving either a notice of classification and appraisal or determination after review under 15-7-102(3) from the department of revenue or its agent, whichever is later~~,--a written--application--for--reduction~~. If the department's determination after review is not made in time to allow the county tax appeal board to review the matter during the current tax year, the appeal must be reviewed during the next tax year, but the decision by the county tax appeal board is effective for the year in which the request for

review was filed with the department. The application ~~shall~~ must state the post-office address of the applicant, ~~shall~~ specifically describe the property involved, and ~~shall~~ state the facts upon which it is claimed the reduction should be made."

NEW SECTION. **Section 4.** **Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to objections submitted under 15-7-102(3) after December 31, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0250, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act clarifying that an objection to a property tax classification or appraisal may first be heard by the Department of Revenue; revising the department's process for handling an objection; revising the procedure for appeals to the county and state tax appeal boards; and providing an immediate effective date and a retroactive applicability date.

FISCAL IMPACT:
The proposal would not materially impact Department of Revenue expenditures or revenues. The proposal may result in fewer appeals brought to the county tax appeal boards and state tax appeal board, which are funded from the state general fund. Minor savings are potential but inestimable.

Dave Lewis 1-25-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Bob Ream 1-25-93
BOB REAM, PRIMARY SPONSOR DATE

Fiscal Note for HB0250, as introduced

HB250

HEARING ON HOUSE BILL 250

Opening Statement by Sponsor:

REP. BOB REAM, HD 54, Missoula, stated HB 250 was introduced at the request of the Department of Revenue, (DOR). The bill provides an intermediate step for property owners to appeal to the DOR before the appeal goes to the State Tax Appeals Board (STAB). This provision provides the option of negotiating an agreement with DOR prior to going to a full appeal hearing before STAB.

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, DOR, presented proposed amendments that would conform the title to reflect the amendment of section 15-15-103; standardize to 30 calendar days the time for appeal from decisions of the county board to the state board; and insure that a taxpayer appeal not received in time to be considered by the county board at the current session of the board shall be carried over to the next year as provided for in section 3 **EXHIBIT 1.**

Pat McKelvey, STAB member, said DOR and STAB worked on the bill and the amendments. He said the holdover provision is important if timely filed appeals come in close to the end of the county tax appeal board's term. It is important to be able to hold the appeals over for the next term.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. McCAFFREE asked if taxpayers are assessed penalties and interest when appeals are held over.

Mr. Woodgerd replied taxpayers are required to pay the taxes to the protest fund when due in November. If the taxpayer wins the appeal the payment is returned with all interest earned during the protest period.

Mr. McKelvey said the bill expands the taxpayer"s right to appeal and also makes the process less expensive and more workable.

Closing by Sponsor:

REP. REAM closed.

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 1/26/13

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. McCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

EXHIBIT 1
DATE 1/26/93
HB 250

Amendments to House Bill No. 250
First Reading Copy

Requested by Department of Revenue
For the Committee on Taxation

Prepared by Bruce McGinnis, DOR
Lee Heiman, Legislative Council
January 25, 1993

Purpose of Amendments:

1. The purpose of amendment #1 is to conform the title to reflect the amendment of section 15-15-103.
2. The purpose of amendment #2 is to standardize the time for appeal from decisions of the county board to the state board. The time for appeal is 30 calendar days for all appeals.
3. The purpose of amendment #3 is to insure that a taxpayer appeal not received in time to be considered by the county board at the current session of the board shall be carried over to the next year as provided for in section 3.

---

1. Title, line 10.
Strike: "AND"
Following: "15-15-102,"
Insert: "AND 15-15-103,"

2. Page 3, line 15.
Strike: "20"
Insert: "30 calendar"

3. Page 8.
Following: line 5
Insert: "**Section 4.** Section 15-15-103, MCA, is amended to read:

"**15-15-103. Examination of applicant -- failure to hear application.** (1) Before the county tax appeal board grants any application or makes any reduction applied for, it must examine on oath the person or agent making the application, touching the value of the property of each person. No reduction must be made unless such person or agent makes an application, as provided in 15-15-102, and attends and answers all questions pertinent to the inquiry. The testimony of all witnesses upon such hearing must be taken in shorthand or by stenotype or electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, all testimony must be transcribed or otherwise reduced to writing and forwarded, together with all exhibits, to the state tax appeal board. The date of hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days thereafter. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, ~~except,~~ the taxpayer's application is

considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book. An application is not automatically granted for the following appeals:

(a) ~~that~~ those listed in 15-2-302~~,~~; and

(b) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the board during its current 60 day session ~~the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book~~."

{*Internal References to 15-15-103: None.*}

Renumber: subsequent section

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Taxation COMMITTEE BILL NO. HB 250 HB 254 HB 327 HB 268

DATE 1/26/93 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tom Hopgood	Mt. Assoc. Realtors HB268		✓
Patrick McKelvey	STAB	X	
Bill Verwolf	City of Helena HB268	✓	
Don Hurni	" " " "	✓	
Dina Fulton	Dept of Administration HB268		
Ray McKenna	City of Helena HB268	✓	
Dave Woodyard	Dept. of Rev. HB258	250 ✓	
Steve Turkiewicz	Mt. Auto Dealers Assn		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

have to submit the agreement to the Governor for his approval and to the Attorney General for legal review before it is signed.

Motion/Vote:

REP. TUNBY MOVED HB 92 DO PASS AS AMENDED. Motion carried 11 - 9 on a roll call vote.

EXECUTIVE ACTION ON HOUSE BILL 186

Motion/Vote: **REP. McCAFFREE MOVED HB 186 DO PASS.** Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 250

Motion: **REP. REAM MOVED HB 250 DO PASS.**

Motion/ Vote: **REP. REAM MOVED ADOPTION OF AMENDMENTS AS PER EXHIBIT 8.** Motion carried unanimously.

Motion/Vote: **REP. REAM MOVED HB 250 DO PASS AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 254

Motion: **REP. McCAFFREE MOVED HB 254 DO PASS.**

Discussion:

REP. McCAFFREE said the County Treasurers requested the bill due to the increased work load necessitated by filing of motor vehicle liens. The current $4 fee is remitted entirely to the state and there is no remuneration for the Treasurers. He said if they are the ones doing the work they should be paid for it.

Motion/Vote: **REP. DRISCOLL MOVED TO AMEND THE BILL BY INSERTING ON PAGE 5, LINE 19, FOLLOWING "COUNTY TREASURER", THE FOLLOWING LANGUAGE: "BY THE PERSON WANTING THE VEHICLE ENCUMBERED".** He gave **Mr. Heiman** the authority to adjust the language appropriately. Motion to amend carried unanimously.

Motion: **REP. McCAFFREE MOVED HB 254 DO PASS AS AMENDED.**

Discussion:

REP. FELAND said this seems to be another method of circumventing I-105. The County Treasurers need more money so they are simply adding on another fee.

HOUSE STANDING COMMITTEE REPORT

January 27, 1993

Mr. Speaker: We, the committee on Taxation report that House Bill 250 (first reading copy -- white) do pass as amended .

Signed: _____
Bob Gilbert, Chair

And, that such amendments read:

1. Title, line 10.
Strike: "AND"
Following: "15-15-102,"
Insert: "AND 15-15-103,"

2. Page 3, line 15.
Strike: "30"
Insert: "30 calendar"

3. Page 4, line 12.
Strike: "department's agent"
Insert: "county assessor"

4. Page 8.
Following: line 5
Insert: "Section 4. Section 15-15-103, MCA, is amended to read:

"15-15-103. Examination of applicant -- failure to hear application. (1) Before the county tax appeal board grants any application or makes any reduction applied for, it must examine on oath the person or agent making the application, touching the value of the property of each person. No reduction must be made unless such person or agent makes an application, as provided in 15-15-102, and attends and answers all questions pertinent to the inquiry. The testimony of all witnesses upon such hearing must be taken in shorthand or by stenotype or electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, all testimony must be transcribed or otherwise reduced to writing and forwarded, together with all exhibits, to the state tax appeal board. The date of hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by

mail within 3 days thereafter. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book. An application is not automatically granted for the following appeals:

(a) ~~except that~~ those listed in 15-2-302~~,~~; and

(b) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the board during its current 60-day session ~~the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book.~~""

Renumber: subsequent section

EXHIBIT 8
DATE 1/27/93
HB 250

Amendments to House Bill No. 250
First Reading Copy

Requested by Department of Revenue
For the Committee on Taxation

Prepared by Bruce McGinnis, DOR
Lee Heiman, Legislative Council
January 26, 1993

1. Title, line 10.
Strike: "AND"
Following: "15-15-102,"
Insert: "AND 15-15-103,"

2. Page 3, line 15.
Strike: "20"
Insert: "30 calendar"

3. Page 4, line 12.
Strike: "department's agent"
Insert: "county assessor"

4. Page 8.
Following: line 5
Insert: "**Section 4.** Section 15-15-103, MCA, is amended to read:

"**15-15-103. Examination of applicant -- failure to hear application.** (1) Before the county tax appeal board grants any application or makes any reduction applied for, it must examine on oath the person or agent making the application, touching the value of the property of each person. No reduction must be made unless such person or agent makes an application, as provided in 15-15-102, and attends and answers all questions pertinent to the inquiry. The testimony of all witnesses upon such hearing must be taken in shorthand or by stenotype or electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, all testimony must be transcribed or otherwise reduced to writing and forwarded, together with all exhibits, to the state tax appeal board. The date of hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days thereafter. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book. An application is not automatically granted for the following appeals:

(a) ~~except, that~~ those listed in 15-2-302~~,~~; and

(b) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the board during its current 60-day session ~~the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the appraisal or classification sought in the application in the assessment book~~."

{*Internal References to 15-15-103: None.*}

Renumber: subsequent section

Senator Stang asked if passage of HB 312 would be allowing the Bonneville Power Administration to challenge us in court. Dave Woodgerd said the Department looked at this and the answer is no, the state's legal position would not be jeopardized in the power line case.

Closing by Sponsor:

Senator Foster offered no further remarks on closing.

HEARING ON HB 250

Opening Statement by Sponsor:

Representative Bob Ream, House District 54, presented HB 250 at the request of the Department of Revenue (DOR). House Bill 250 will provide for an intermediate negotiation with the DOR on property tax classification disputes, prior to going to the Tax Appeal Board. This provides an opportunity for a taxpayer to try to work out differences with the DOR before they go to their County Tax Appeal Board and take up the time of that Board.

Informational Testimony:

Dave Woodgerd, Department of Revenue, said the purpose of HB 250 will allow for review by the DOR of property tax questions before an appeal to the Tax Appeal Board. This will save time for the DOR and the taxpayer. An instance would be where a home is appraised as a 3-bedroom house, when it actually has two bedrooms. The taxpayer can come to the DOR, through their county assessor, the DOR will adjust the value down and save an appeal. Mr. Woodgerd said a great many issues can be resolved before going to the County Tax Appeal Board.

Proponents' Testimony:

John McNaught, Chairman of the State Tax Appeal Board, said this procedure would take care of some appeals that start out at the county level, so he is in favor of HB 250.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Stang questioned Dave Woodgerd if HB 250 would take out the appeal at the local level. Mr. Woodgerd said taxpayers are encouraged to talk to the DOR prior to, or during, the time they have an appeal before the county board. This is currently done informally; HB 250 will formalize the process with the local appraiser. A taxpayer first has an opportunity to go to their local appraiser, then to the County Tax Appeal Board.

Without results locally, they will then go to the State Tax Appeal Board.

In response to questions by Senator Eck, Dave Woodgerd said there have been some problems in the past and HB 250 would clarify the appeal process.

Senator Gage asked Dave Woodgerd if the word "knowingly" could be placed before "neglects" on line 20, page 1 of HB 250, so someone would not be penalized for a legitimate error in filling out the DOR questionnaire forms. Mr. Woodgerd said he had no problems with that. John McNaught, Chairman of the State Tax Appeal Board, said the DOR sends out forms each year for personal property changes and corrections. If a person makes a mistake or neglects to include some personal property that was previously listed, the DOR will contact the taxpayer and they will have a chance to correct this without being penalized.

Senator Gage asked Dave Woodgerd about the 20% penalty assessment. Mr. Woodgerd said this is 20% of the appraised or assessed value. Normally, the Department imposes a 10% penalty in the first year, and if the same problem still exists the next year, an additional 10% is imposed, up to the 20%. HB 250 has an appeal procedure to the Department of Revenue, and to the County and State Tax Appeal Board, in which the penalty can be waived.

Closing by Sponsor:

Representative Ream offered no further remarks on closing.

HEARING ON SB 359

Opening Statement by Sponsor:

Senator Dennis Nathe, representing Senate District 10, presented SB 359 which is an act imposing a 1/2 cent tax on every gallon of gasoline in order to provide money for grants and loans to railroads that the Rail Planning Division determines are essential for maintenance in order to keep the pressure off the highways, and grants and loans for intermodal transportation facilities such as port authorities or trans-shipping points that would need grants or loans to put, or keep, them in operation. All of this is in the interest of reducing wear and tear on the highways. When a branch railroad line is abandoned, the wheat has to be transported over the highways to the main railroad line. This heavy trucking tears up highways very fast, especially during spring thaw weather. Every unit train on the main line has 104 cars which carries 343,000 bushels of wheat. The average semi-truck carries between 800 and 1200 bushels of wheat. Senator Nathe said it is in the best interests of the state's highway system to keep the railroads transporting the produce by rail, instead of trucking it on the highways.

Senator Halligan asked Pat Sandon how the Department envisions this program working so abandonment of railroad branch lines would be not encouraged and the public would not be paying for rehab as a result of abandoned lines. Ms. Sandon said she doesn't feel SB 359 would encourage Burlington Northern to abandon their lines; that if they are making a profit, they are going to keep the branch lines, and that unprofitable branch lines will be abandoned, or BN may look for alternative operators for those lines. She sees the funds established by SB 359 as a tool to find short-line operators for these branch lines.

Ms. Sandon said that the Division could administer this program without any additional administrative costs.

Senator Gage asked Senator Nathe if it would be any help to extend SB 359 to include "or to provide loans or grants to certain railroads or port authorities", after "alleys", in line 15, page 2. Senator Nathe said this would be acceptable, but funds would probably not be available since the county roads are in need now and the funds would probably be used there.

Closing by Sponsor:

Senator Nathe said SB 359 is an attempt to find a solution to maintain some rails so the highways are not impacted so severely. There are 500 miles of branch rail lines left in the State of Montana, and if they are abandoned, there would be more impacts on the highways, and the citizens of Montana are going to pay for that impact one way or another. He sees SB 359 as a preventative measure for the highways.

EXECUTIVE ACTION ON HB 312

MOTION/VOTE:

Senator Stang moved HB 312 BE CONCURRED IN (381043SC.Sma). The motion CARRIED UNANIMOUSLY on oral vote. Senator Stang will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 250

MOTION/VOTE:

Senator Yellowtail moved HB 250 BE CONCURRED IN (381039SC.Sma). The motion CARRIED UNANIMOUSLY on oral vote. Senator Halligan will carry the bill on the Senate floor.

ROLL CALL

SENATE COMMITTEE TAXATION DATE 2-16-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe			✓
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

February 16, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 250 (first reading copy -- blue), respectfully report that House Bill No. 250 be concurred in.

Signed: _____
Senator Mike Halligan, Chair

m- Amd. Coord. Halligan

381039SC.Sma